irregularity and if it can be remedied by an amendment to the writ there is no reason why the relevant paragraphs in the statement of claim should be struck out. To strike them out at this stage when the defect can be remedied will only lead to further delay in the resolution of this dispute. Further, it is clear from the history of these proceedings that, save for the claim in conversion, the other claims for reimbursement of expenses incurred in respect of the vessel were made and intended to have been made against the vendors and not TJT. Although TJT have entered appearance as owners of the vessel, the plaintiffs and the interveners have never accepted TJT's claim to ownership. Consistent with their stand, the plaintiffs have filed a statement of claim to include causes of action (one of which, the claim for agency fees, may be an action *in rem* claim even if the vendors were the beneficial owners of the vessel at the date of the writ) which were, by their terms, directed against the vendors and not TJT. Another reason why I have come to the conclusion that the said claims were never intended to have been made against TJT is the consideration that TJT could never be liable to the plaintiffs in respect of the said *in personam* actions whatever the position might be as regards the ownership of the vessel. These claims will fail against TJT irrespective of whether TJT have become the owners of the vessel. For these reasons, TJT have no interest whatever in these claims and therefore no *locus standi* to object to the inclusion of these claims in the statement of claim: see *The Lord Strathcona.*[2]

TJT do have a sufficient interest to object to the inclusion of the claim in conversion as being in contravention of Order 18 rule 15(2) since it is made against and affects TJT. But, as I have indicated, it may be more convenient to hold over this application until the plaintiffs have been given an opportunity to amend their writ. As limitation has not set in, there should be no difficulty in obtaining leave to amend unless counsel for TJT is correct in his other submissions that a claim *in personam* may not be included in an admiralty action *in rem* or alternatively the claim in conversion is not within the admiralty jurisdiction of the court and for that reason may not be claimed in such an action. There are two distinct issues here. The first is whether an action *in rem* and an action *in personam* within the admiralty jurisdiction of the court may be joined in one action. It is clear that this may be done: see *Five Steel Barges.*[3] So, if the claim in conversion against TJT is within the admiralty jurisdiction of the court, there should be no reason why it may not be joined in the present action *in rem* since TJT have entered appearance to the writ: see *The Elton*[4] and *The August 8.*[5] The second issue is whether a cause of action which is within the ordinary civil jurisdiction of the court but not within its admiralty jurisdiction may be joined with an admiralty action *in rem.* This issue will become relevant if the claim in conversion is within the ordinary civil jurisdiction of the court but not its admiralty jurisdiction. No doubt these points will be fully addressed when the plaintiffs make their application to amend and therefore it is neither proper nor desirable that I should say anything more on them.

In the circumstances, I shall hold over this application to enable the plaintiffs to apply to amend their writ. The parties will have liberty to apply. Costs of the application will be reserved.

Order accordingly.

Solicitors: *Drew & Napier; S. Gunaseelan.*

HONGKONG BANK TRUSTEE (SINGAPORE) LTD. v. FARRER TAN & 5 ORS.

[O.C.J. (Chan Sek Keong J.C.) January 19, 1988]

[Singapore – Originating Summons No. 193 of 1985]

Succession – Will – Trusts created by will – Purpose trusts – Purposes became impossible to perform – Status of property bequeathed.

Trusts and Trustees – Purpose trusts – Created by will – Purposes became impossible to perform – Status of property held on trusts.

Trusts and Trustees – Purpose trusts – Purposes could not be performed – Whether trusts against rule against perpetuities – Whether trusts contrary to Accumulations Act 1800 – Stirpital division of the capital of the trust fund – Status of trust property.

By clause 11 of her will, the testatrix provided that her property and a sum of $10,000 be held under certain trusts. By clause 21 of her will, the testatrix declared that if any legacies or bequests shall fail for any reason whatsoever then the property thereby devised or bequeathed shall fall into and form part of her residuary estate.

The testatrix died on September 18, 1931 and left surviving her two natural sons, *viz.* Edward Tan Tat Min and Farrer Tan Kong Min. Probate of her will was granted to the executors on November 6, 1931. On March 15, 1974, the plaintiffs were appointed the sole trustee in substitution for and in place of the former trustees.

The land comprising the plantation mentioned in clause 11 of the will was compulsorily acquired by the government on February 14, 1980. In consequence, the purposes of the trust created by clause 11 became impossible of performance when the government resumed ownership of the said land.

The trust fund now consists of investments in stocks and shares and in cash. The plaintiffs, being in doubt as to how the trust fund should continue to be applied, sought the determination of the court on the following questions:

(a) whether upon the true construction of clause 11 of the said will and the events which have happened the trust failed;

(b) whether upon the construction of clause 11 of the said will and the events which have happened,

(i) the trust should be wound up; or

(ii) the trustee should maintain the trust until the expiration of the trust period as stipulated in clause 11(a) of the said will, by the natural effluxion of time; or

(iii) the trust should fall into and form part of the residuary estate of the said deceased;

(c) that if the answer to question (b) above be in terms of sub-paragraph (i), that it may be determined whether the trustee should distribute both the capital and the income of the trust fund:

(i) as to one half to the first, second and third defendants as tenants-in-common in equal shares and as to the other half to the fourth and fifth defendants as tenants-in-common in equal shares; or

(ii) to all the living male descendants of the testatrix as tenants-in-common in equal shares per stirpes;

(d) that if the answer to question (b) above be in terms of sub-paragraph (ii), that it may be determined whether the income of the trust should be:

(i) accumulated until the distribution date; or

(ii) distributed to the first defendant and the fourth defendant as tenants-in-common in equal shares until the date of distribution; or

(iii) distributed as to one half to the first defendant and all his male descendants living before the date of distribution, and as to the other half to the fourth defendant and all his male descendants living before the date of distribution; or

(iv) distributed in any other, and if so, which way.

Held: (1) the trusts created by clause 11 of the will is generally known as a purpose trust, *i.e.* a trust in which there are no human beneficiaries and which is not charitable;

(2) the purpose trusts declared by clause 11 of the will having failed, the income which has accrued or accruing from the date of such failure shall fall into the residuary estate under, and shall be distributed in accordance with, clause 21 of the will;

(3) the trustees shall hold the capital of the trust fund until the expiry of the trust period when the said capital shall be divided into two halves and distributed one half each equally among the male descendants (from both male and female lines of descent) then living of Edward Tan and Farrer Tan respectively.

Cases referred to:

(1) *Re Endacott* [1960] Ch. 232.
(2) *Re Villar* [1929] 1 Ch. 243.
(3) *Re Leverhulme* [1943] 2 All E.R. 274.
(4) *Tan Jiak Kim* v. *Tan Jiak Whye* (1897) 4 S.S.L.R. 141.
(5) *Re Gardiner* [1901] 1 Ch. 697.
(6) *Vine* v. *Raleigh* [1891] 2 Ch. 13.
(7) *Mcphail* v. *Doulton* [1971] A.C. 424.
(8) *Re Drake* [1970] 3 W.L.R. 228.
(9) *Sidey* v. *Perpetual Trustees Estate and Agency Company of New Zealand* [1944] A.C. 194.

ORIGINATING SUMMONS.

H.M. Dyne for the plaintiffs.

K.S. Lo for the first defendant.

T.P.B. Menon for the second and third defendants.

David Hew for the fourth and fifth defendants.

C.C. Tan for the male descendant unborn.

Cur. Adv. Vult.

Chan Sek Keong J.C.: Clause 11 of the will of Ho Sok Choo Neo made on December 22, 1930 provided as follows:

"I give and devise unto my trustees my plantation in Holland Road Singapore wherein my father the late Ho Yang Moh deceased was buried together with the temple and other buildings erected thereon and also together with the sum of Dollars Ten thousand ($10,000—) in cash such land forming the plantation and such cash to be held by them upon the following trusts namely:

(a) Upon trust to invest the said cash in any form of investment authorized by law for trust funds and to hold the said cash and the investments for the time being representing the same and the said land and plantation temple and buildings for the period following namely for and during the lives of all the descendants of His Majesty George the Fifth living at that date of my death and the further period of twenty (20) years from the date of the death of the last survivor of all such descendants.

(b) During the last mentioned period to receive the income from the said cash investments and plantation and to apply the same for the purpose of keeping the said plantation clean weeded and in good and clean condition and for the purpose of keeping the said temple and buildings and the graves thereon in a good and decent state of repair and to employ and pay gardeners and others for the purpose.

(c) At the expiration of the said period to hold the said plantation land buildings cash and investments upon trust

for all my male descendants then living as tenants-in-common in equal shares per stirpes."

By clause 21 of her will, the testatrix declared that "if any legacies or bequests hereinbefore contained shall fail for any reason whatsoever then the property thereby devised or bequeathed shall fall into and form part of my residuary estate".

The testatrix died on September 18, 1931 and left surviving her two natural sons, *viz.* Edward Tan Tat Min and Farrer Tan Kong Min. Probate of her will was granted to the executors named therein on November 6, 1931. On March 15, 1974, the plaintiffs were appointed the sole trustee in substitution for and in place of the former trustees.

The land comprising the plantation mentioned in clause 11 of the will and on which was situated the temple, the buildings and the graves was compulsorily acquired by the government on February 14, 1980. In consequence, the purposes of the trust created by clause 11 became impossible of performance when the government resumed ownership of the said land.

The trust fund now consists of investments in stocks and shares and in cash. As at August 17, 1987, the capital value of the fund was approximately $1,816,000 and the total accrued income was approximately $286,000.

The plaintiffs/trustees, being in doubt as to how the trust fund should be continued to be applied, have now taken out this application for the determination by the court of the following questions:

"1. Whether, upon the true construction of clause 11 of the said will and the events which have happened, the trust has failed.

2. Whether, upon the true construction of clause 11 of the said will and the events which have happened,

(i) the trust should be wound up; or

(ii) the trustee should maintain the trust until the expiration of the trust period as stipulated in clause 11(a) of the said will, by the natural effluxion of time; or

(iii) the trust should fall into and form part of the residuary estate of the said deceased.

3. That if the answer to question 2 above be in terms of sub-paragraph (i), that it may be determined whether the trustee should distribute both the capital and the income of the trust fund:

(i) as to one half to the first, second and third defendants as tenants-in-common in equal shares and as to the other half to the fourth and fifth defendants as tenants-in-common in equal shares; or

(ii) to all the living male descendants of the testatrix as tenants-in-common in equal shares per stirpes.

4. That if the answer to question 2 above be in terms of sub-paragraph (ii), that it may be determined whether the income of the trust should be:

(i) accumulated until the distribution date; or

(ii) distributed to the first defendant and the fourth defendant as tenants-in-common in equal shares until the date of distribution; or

(iii) distributed as to one half to the first defendant and all his male descendants living before the date of distribution, and as to the other half to the fourth defendant and all his male descendants living before the date of distribution; or

(iv) distributed in any other, and, if so, which way."

The male descendants of the testatrix alive at the date of this application are her son, Farrer Tan Kong Min, his sons, Christopher Man Hsien Tan and Jonathan Man Sui Tan, her grandson Peter Tan Man Fui (son of Edward Tan Tat Min, deceased), her great grandson, Edwin Tan Tsun Wing (son of Peter Tan) and they are respectively the first, second, third, fourth and fifth defendants herein.

The sixth defendant, Chye Cheng Tan, an advocate and solicitor, was appointed on January 23, 1987 by order of court in place of L.A.J. Smith (who died on November 5, 1986) to represent the interests of the male descendants not yet born of the testatrix, who would be entitled to benefit under clause 11 if the trust expired by the natural effluxion of time.

At the outset of the hearing, counsel for the plaintiff made an application that the estate of Edward Tan, deceased, be separately represented by counsel. The application was supported by counsel for the first defendant on the ground that if the income or the capital of the trust fund were to go to the next of kin or into the residuary estate under the will, his interest would be affected. The application was also supported by the sixth defendant on the ground that otherwise any decision of the court would not be binding on him. I made no order on the application as I was of the view that the interest of the estate of Edward Tan in the trust fund was indirectly represented and therefore sufficiently protected either by the

representation in these proceedings of the brother, the first defendant, or the son, the fourth defendant. Also, I was not inclined to accept the argument that any decision of the court would not be binding on the estate of Edward Tan as a sufficient ground for appointing separate counsel.

The submissions of counsel for the parties are summarized below.

Counsel for the plaintiffs quite properly took a neutral stance in these proceedings, but nevertheless made the following submissions in order to assist the court: (1) the trust declared by clause 11 was valid as it did not infringe the rule against perpetuities or the rule relating to accumulations; (2) the object of the trust having failed, the income falls into residue under clause 21 to be distributed in accordance with its terms but the capital must be kept intact until the royal lives period prescribed in clause 11, *i.e.* twenty years after the death of the last descendant of His Majesty George V living at September 18, 1931 ("the trust period"); (3) the doctrine of acceleration does not apply; (4) upon the vesting of the capital, it should be divided into two shares and distributed in equal shares per stirpes, one among the male descendants of and including Edward Tan and the other share among the male descendants of and including Farrer Tan.

The sixth defendant made the following submissions: (1) the trust declared by clause 11 was valid as it did not infringe the rule against perpetuities; (2) there was an implied direction in clause 11 for accumulation of the surplus income throughout the trust period and accordingly such direction was void to the extent that it contravened the Accumulations Act 1800; (3) the expression "male descendants" included male issues of female granddaughters.

The submissions of counsel for the first defendant were: (1) the trust was valid, it being of a public character and within the perpetuity period; (2) the purpose of the trust having failed, the capital and income of the trust fund fell into residue; (3) clause 11 contained an implied direction to accumulate the income beyond the period allowed by the Accumulations Act 1800; the accumulation period ended in 1952 and all income thereafter fell into residue and there should be an inquiry as to how much income had since then been accumulated.

Counsel for the grandsons, the second and third defendants, associated himself with the submissions of counsel for the first defendant but contended additionally that the trust failed *ab initio* on two grounds: (1) it infringed the rule against perpetuities as the testatrix in prescribing the trust period intended to use the land forever as a burial ground; (2) there was uncertainty as to the beneficiaries in that the expression "male descendants" was uncertain in meaning; accordingly there was a resulting trust of both the capital and the income in favour of the beneficiaries mentioned in clause 21 of the will.

The trust created by clause 11 of the will is generally known as a purpose trust *i.e.* a trust in which there are no human beneficiaries and which is not charitable. It is a fundamental principle of English law that no trust which is not a charitable trust can be valid if it has no beneficiary. However, for reasons attributable to human weakness or sentiment, the English courts have upheld a number of such trusts as valid provided that the purposes are sufficiently defined and they did not last longer than the perpetuity period (which, for this purpose, was of the duration as the perpetuity period for the vesting of an interest). These recognized classes of purpose trusts are regarded as anomalous exceptions to the general rule and their classes will not be extended. In *Re Endacott*,[1] Lord Evershed M.R., after referring to the classification of these exceptions (one of which is trusts for the erection or maintenance of monuments and graves) in Morris and Leach: *The Rule Against Perpetuities* (1956), said (at p. 246):

> "Still, in my judgment, the scope of these cases (and I can call them anomalous because they have been so called both in the book of Mr. Morris and Professor Barton Leach and in the course of the argument) ought not to be extended. So to do would be to validate almost limitless heads of non-charitable trusts, even though they were not (strictly speaking) public trusts, so long only as the question of perpetuities did not arise; and, in my judgment, that result would be out of harmony with the principles of our law. No principle perhaps has greater sanction or authority behind it than the general proposition that a trust by English law, not being a charitable trust, in order to be effective, must have ascertained or ascertainable beneficiaries. These cases constitute an exception to that general rule. The general rule, having such authority as that of Lord Eldon, Lord Parker and my predecessor, Lord Greene M.R., behind it, was most recently referred to in the Privy Council in *Leahy* v. *Attorney-General for New South Wales.*"

The law in Singapore is the same, subject, however, to local circumstances.

In the present case, it is common ground that the trust created by clause 11 of the will for the

purpose of keeping the temple, the buildings and the graves in a good and decent state of repair, if considered as an integral purpose, would fall within one of the recognized exceptions. If the said purpose were severable, that part concerning the upkeep of the "buildings" ought not to be valid, but since the parties have not contended otherwise, I shall assume that the point is inconsequential. It should also be noted that the trust declared in clause 11 included another quite separate and distinct purpose, which was to keep the plantation clean, weeded and in good and clean condition. As the trust for this object is not within any of the recognized classes of purpose trusts, it ought to have failed for want of a beneficiary. Again, counsel have not addressed me on this point or on the consequence, if any, of the invalidity of this part of the trust to the destination of the income of the trust fund. Accordingly, I must assume that the parties are content to treat the trusts declared by clause 11 as forming an integral purpose and also that in the events that have happened, nothing would be gained by resurrecting this issue as what has been done cannot be undone and that there is now no possibility of the income being used for any unlawful purposes.

Except for the suggestion by counsel for the second and third defendants that the testatrix had intended to tie up the land forever as a burial ground, which suggestion is contrary to the terms of clause 11, it is also common ground that the trust period in clause 11 would not last longer than the perpetuity period and that the use of royal lives beginning with the descendants of King George V did not make the determination of the time of vesting uncertain: see *Re Villar*[2] and *Re Leverhulme.*[3]

The next issue is whether clause 11 infringed the Accumulations Act 1800 (which is part of the law of Singapore: see *Tan Jiak Kim* v. *Tan Jiak Whye*[4]) in so far as clause 11 might have allowed an accumulation of income beyond 21 years from the death of the testatrix. It is not disputed that the defraying of income for the upkeep of the plantation, the buildings, the temple and the graves thereon did not amount to an accumulation of income to the said property: see *Re Gardiner*[5] and *Vine* v. *Raleigh.*[6] However, it was contended by counsel for the first defendant and the sixth defendant that clause 11 contained an implied direction to accumulate income during the trust period as nothing was said about the disposal of the surplus income. As I understand it, the argument was that the implied direction to accumulate could be inferred from the expression "cash" in clause 11(c), which expression, it was contended, meant "income". No authority was produced to show why the said expression meant income and not, for example, capital held in the form of cash. It was suggested that since the word "cash" was used in juxtaposition with the words "investments" and "plantation", which latter expressions both refer to the capital of the trust fund, the word "cash" must refer to "income". It might also be suggested that at the end of the trust period, the trustees could be holding unused income in the form of cash. However, I do not agree with this contention for the following reasons. Firstly, clause 11 uses the expression "cash" in the opening words and paragraphs (a) and (b) to refer to the sum of $10,000 cash which the trustees must invest to provide the income to carry out the purpose trusts. At the end of the trust period, the cash and investments are to be held in trust for the male descendants under paragraph (c). In my view, the expression "cash" in paragraph (c) is used in the same sense as it is used in paragraphs (a) and (b) as no income is intended to be included in the gift over. Secondly, the testatrix has in clause 11 used the expression "income" when she meant income. Thirdly, since clause 11 expressly directed the trustees to apply the income to carrying out the purposes trusts, without any qualification, it meant that they were required to apply all the income. Accordingly, it would be a contradiction in terms to speak of clause 11 as containing an implied direction to accumulate. To amount to such a direction, the property must be given in such a manner that the accumulation becomes necessary: see Theobald on *Wills* 14th Ed. pp. 616-617. An example of this would be that the amounts directed to be expended can never exhaust the income. A direction to accumulate should not be implied where an accumulation has occurred temporarily or fortuitously or through the neglect or breach of duty on the part of the trustees in carrying out the trust. Finally, the contention appears to be academic as there is no evidence that there was any surplus income at all at any time during the period prior to the failure of the trust.

Accordingly, I hold that nothing in clause 11 has infringed the Accumulations Act 1800.

The next issue raised by counsel for the second and third defendants is that the trust failed for uncertainty in that it is not certain what the testatrix meant by "male descendants". I do not agree with this contention. The rule of certainty of the ob-

jects or persons to be benefited by a trust simply means that they must be expressly designated or capable of being ascertained, except where the trust is for charitable purposes: 48 *Halsbury's Laws of England* 4th Ed. para. 553. In the present case, the testatrix has designated her "male descendants" to be the beneficiaries of the gift over. The description is not so vague as to have no meaning or so uncertain that the persons falling within it cannot be determined when the gift over takes effect: see *Mcphail* v. *Doulton.*[7] It is not disputed that the male descendants of a person may come from the male line as well as from the female line, and so they do. Therefore, that should be its ordinary and natural meaning and this was so decided by the Court of Appeal in *Re Drake*[8] where it was said that the expression was an ordinary description and not a term of art and that, unless the context required otherwise, it bore its ordinary and natural meaning of male persons descended in any manner from a common ancestor, including those descended through females. This contention therefore fails. It should, however, be noted that this contention had no relevance to the validity of the purpose trusts but only to the validity of the gift over.

The next point is where in the generations of male descendants the stirpital division should begin. Counsel for the trustees has suggested that the stirpital division should begin with the two natural sons of the testatrix. No contrary or different argument has been advanced to me by counsel for the other parties.

The principle for determination of stocks for the purpose of a distribution per stirpes is succintly stated in 50 *Halsbury's Laws of England* 4th Ed. in para. 575 as follows:

> "The determination of the persons forming the stocks from which the stirpes are to spring is a matter of construction of each will. Sometimes it may appear from the terms of the gift that the stocks should be persons who might themselves take under the gift, for example the original takers for whom the stirpes are substituted, and not ancestors of such takers, but there is no rule of construction which requires that the stocks of descent are to be found among the takers and not among the ancestors."

In the present case, the gift over will take effect 20 years after the royal lives period. Long as this period would have appeared when this will came into effect in 1931, the gift over could still have vested within the lifetime of either of the natural sons of the testatrix. Therefore, the testatrix could not have intended to exclude them as possible takers.

In *Sidey* v. *Perpetual Trustees Estate And Agency Company of New Zealand*[9], the will provided for the distribution of the residuary estate "amongst my then surviving descendants in such manner that the same shall be divisible per stirpes among the children, grandchildren and remoter issue of such of my children as shall have left issue". In other words, the children of the testator were expressly excluded as possible takers. Notwithstanding that, the Privy Council decided, on a construction of the will in question, that the stirpital division should begin with the ancestors (*i.e.* the children of the testator) rather than the possible takers. At pp. 202-203 of their judgment, their Lordships said:

> "There appears to them on principle to be no reason why, in the construction of a gift per stirpes the stocks should be found among the takers and not among their ancestors. In the simplest case, where a gift is made to a number of persons of different stocks, but of the same generation per stirpes and not per capita, it is manifest that the stocks are to be found, not in the takers, but in the ancestors, and this result is reached, not by the displacement of any *prima facie* rule of construction, but by the consideration of the language of the gift without any predilection. The language of the will under appeal is to be approached in the same way."

It would therefore appear that whichever rule of construction (*i.e.* possible takers versus ancestors) is applied in the present case, the ultimate result in this case is the same. In my view, however, I can find nothing in the will to exclude her sons as the stocks for the stirpital division of the capital of the trust fund under clause 11.

I come now to the final question for determination and that is, the purposes of the trusts having been made impossible by reason of compulsory acquisition, what is to happen to the capital and income of the trust fund. The answers are clear. The testatrix has directed that only the income be used for carrying out the purpose trusts. Since these trusts cannot be carried out now, the income now or hereafter accruing can no longer be applied in accordance with clause 11 (or *cy-pres*, since it is also common ground that the trusts were not charitable). It must therefore fall into the residuary estate as directed by clause 21. The property in the plantation (in its converted state) and the investments, including any capital held in cash, has yet to vest in the male descendants since the trust period has not expired. The contingent gift over has not failed. The trustees will therefore have to hold the said assets (including the land in its converted state) until they vest in the male descendants of the testatrix.

Accordingly, I will answer the questions for determination not in the way or the order in which they have been stated but as follows:

(1) the purpose trusts declared by clause 11 of the will having failed, the income which has accrued or accruing from the date of such failure shall fall into the residuary estate under, and shall be distributed in accordance with, clause 21 of the will;

(2) the trustees shall hold the capital of the trust fund until the expiry of the trust period when the said capital shall be divided into two halves and distributed one half each equally among the male descendants (from both the male and female lines of descent) then living of Edward Tan and Farrer Tan respectively.

The costs of this application to be corpus. Liberty to apply.

Order accordingly.

Solicitors: *Donaldson & Burkinshaw; Allen & Gledhill; Oehlers & Choa; Tang & Tan; Tan Rajah & Cheah.*

YUSUF JUMABHOY v. THE LAW SOCIETY OF SINGAPORE

[O.C.J. (Chan Sek Keong J.C.) January 19, 1988]

[Singapore – Originating Summons No. 65 of 1987]

Legal Profession – Complaint against advocate and solicitor – Whether complaint valid and substantiated – Whether there is a right to oral hearing before Inquiry Committee – Legal Profession Act, ss. 87(5) & 96.

Legal Profession – Report of Inquiry Committee – Whether could be disclosed.

The plaintiff lodged a complaint with the Law Society against Teo Eng Leong, an advocate and solicitor, for extortion. The complaint was duly sent to the Inquiry Committee for investigation. The Inquiry Committee completed its investigation and concluded that a formal investigation was not required. The Council of the Law Society accepted the recommendation of the Inquiry Committee that the complaint be dismissed and accordingly informed the plaintiff. The plaintiff then wrote to the Council for its reasons in writing and also for certain particulars relating to the identities of the members of the Inquiry Committee and the manner in which they arrived at their decision and also to be given a copy of the said recommendation. The Council in its reply declined the plaintiff's requests.

The plaintiff, being dissatisfied with the determination of the Council, applied under section 96 of the Legal Profession Act for an order that the Law Society be directed to apply to the Chief Justice for the appointment of a Disciplinary Committee to investigate into the said complaint.

Held, dismissing the application: (1) save for section 87(5), the Act has not prescribed any procedural requirements that the Inquiry Committee must follow in investigating a complaint against an advocate and solicitor. Section 87(5) was not intended to confer any rights on a complainant but to provide an opportunity to the advocate and solicitor complained against to reply to allegations against him and to request an oral hearing. There is nothing in section 87(5) to say that even if he were to request an oral hearing, he would be automatically entitled to one;

(2) the plaintiff had no right to an oral hearing before the Inquiry Committee;

(3) in any case the plaintiff's contention that he was not heard by the Inquiry Committee had no bearing on the substance of the application;

(4) there was nothing in the plaintiff's complaint which could amount to the commission of extortion on the part of Teo;

(5) as the Inquiry Committee had not, on its own motion, under section 87(1)(b) of the Act, to deal with any other possible misconduct arising from the complaint, this court was in no position to consider it;

(6) the determination of the Council was affirmed.

[*Editorial Note:* In the course of the proceedings, the court requested for the report made by the Inquiry Committee. The Council of the Law Society objected whereupon the court ordered the report to be disclosed. The reasons for this court order are stated in the judgment.]

Cases referred to:

(1) *Westminster Bank Ltd.* v. *Beverley Borough Council* [1969] 1 Q.B. 499.

(2) *Schiffahrtsagentur Hamburg Middle East Line GmbH* v. *Virtue Shipping Corpn.* [1981] 2 All E.R. 887.

ORIGINATING SUMMONS.

B. Mohan Singh for the applicant.
A.C. Fergusson for the respondent.

Cur. Adv. Vult.

Chan Sek Keong J.C.: On September 2, 1986, the plaintiff lodged a complaint with the Law Society against Teo Eng Leong ("Teo") for extortion. The complaint was supported by (a) a copy of a report dated August 13, 1986 which he had made to the police; (b) a copy of a form of receipt marked "A"; (c) a memorandum marked "B"; and (d) a copy of a telex marked "C".

The report to the police contained the following allegations: